

REGISTER NUMBER: 658

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 31/01/2011

Case number: 2011-0103

Institution: European Environment Agency (EEA)

Legal basis: article 27-5 of the regulation CE 45/2001⁽¹⁾

(1) OJ L 8, 12.01.2001

INFORMATION TO BE GIVEN⁽²⁾

(2) Please attach all necessary backup documents

1/ Name and adress of the controller

Ms Bitten Serena, Procurement officer, Administrative Services Programme (ADS)

2/ Organisational parts of the institution or body entrusted with the processing of personal data

Legal services group (ADS4)

3/ Name of the processing

Grant and procurement award procedures including call for expression of interest

4/ Purpose or purposes of the processing

Management and administration of the procurement/grant award procedures or of the call for expression of interest for the selection of contractors or beneficiaries, including in particular the provision of evidence of the legal capacity, the financial and economic capacity and the technical and professional capacity of tenderers, applicants or candidates, their staff and subcontractors where applicable.

5/ Description of the category or categories of data subjects

Persons willing to participate in the selection of candidates under a call for expression of interest, or in the selection of beneficiaries of grants or the selection of contractors in procurement procedures of the EEA:

- Candidates (natural persons);
- Tenderers (natural persons);
- Staff of tenderers and/or subcontractors (natural persons)
- Applicants (natural persons)
- Staff of applicants and/or subcontractors (natural persons)

6/ Description of the data or categories of data (including, if applicable, special categories of data (article 10) and/or origin of data)

Personal data of candidates/tenderers/applicants, their staff and subcontractors which may include in particular:

- Name, function, contact details (company and department, postal address, country of residence, business telephone number, mobile telephone number, fax number, e-mail address, internet address);
- Certificates for social security contributions and taxes paid, extract from judicial records;
- Bank account reference (account number, name of the account holder, address of the bank, IBAN and BIC codes)
- Company registration number (legal persons) or Passport/ID number (natural persons), VAT number, membership in a trade or professional organisation;
- Information for the evaluation of selection criteria: financial and economic capacity (bank statement, professional risk indemnity insurance, balance sheet, statement of turnover), expertise, technical and language skills, education background, professional experience including details on current and past employment;
- A declaration of honour that they are not in one of the exclusion situation referred to in Articles 93 and 94 of the Financial Regulation.

Since the information is often provided on CVs, the candidates/tenderers/applicants, their staff and subcontractors, may supply information which might not be necessary for the purpose of selection or the award of grant or contract (such as gender, age, nationality, credentials).

7/ Information to be given to data subjects

The model invitation to tender or to submit a proposal contains a standard clause on data protection, see Annex 1

A privacy statement is attached to the tender documents, see Annex 2

The model contract and grant agreement contain a specific provision on data protection, see Annex 3

8/ Procedures to grant rights of data subjects (rights of access, to rectify, to block, to erase, to object)

Applicants and tenderers have a right to access their data and to update or correct their personal data at any time during the grant or procurement award procedure. The right to rectify the information already provided can only apply to the factual data processed within the concerned grant or procurement award procedure. The right to rectify can only be exercised up to the closing date for submission of applications or tenders. However, inaccurate identification data may be rectified at any time during and after the grant or procurement award procedure.

Any request for access or rectification of personal data shall be addressed in writing at the address mentioned in the contact information mentioned in the invitation to submit a proposal or a tender or at the following address procurement@eea.europa.eu, or to the EEA's Procurement services at the following address European Environment Agency, ADS4, Kongens Nytorv 6, 1050 Copenhagen K, Denmark.

9/ Automated / Manual processing operation

Personal data is provided by submission of an application or tender. The information is processed manually for the purpose of management and administration of the grant or procurement award procedure (e.g. contacts with applicants/tenderers during the evaluation process, and written notifications to the applicants/tenderers upon completion of the evaluation process).

10/ Storage media of data

All applications and tenders shall be kept by the appointed members of the evaluation committees and stored in locked cupboards/offices during the evaluation process.

After completion of the procurement or grant award procedure, the collected personal data and all related information are stored on the premises of the EEA in conformity with the EEA security policy and provisions.

11/ Legal basis and lawfulness of the processing operation

Legal basis:

Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248/1 of 16.9.2002) and the subsequent regulations and corrigenda amending and correcting that regulation;

Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 357/1 of 31.12.2002) and the subsequent regulations and corrigendum amending and correcting that regulation;

EEA Financial Regulation (Decision EEA/MB/52/15 - written procedure) of 19 December 2008, in particular Article 74 as regard procurement and Article 75 as regard grants.

Grounds for lawfulness:

The data processing is considered lawful because it is necessary:

- * for the performance of tasks carried out in the public interest on the basis of the Financial Regulation and its implementing rules (Article 5(a) of Regulation (EC) No 45/2001);
- * to ensure compliance of the data controller with the legal obligations stated in the Financial Regulation and its implementing rules (Article 5(b) of Regulation (EC) No 45/2001);
- * to take steps prior to entering into a contract with the data subjects (Article 5(c) of Regulation (EC) No 45/2001).

There is no restriction under Article 20 of Regulation (EC) No 45/2001

12/ The recipients or categories of recipient to whom the data might be disclosed

All recipients are on a "need to know" basis:

- * Staff of operational, financial and/or legal groups participating in the management of the selection of candidates/contractors/beneficiaries and staff of the bodies entrusted with a monitoring or inspection task in application of European Union law (e.g. internal audit);
- * External experts and contractors participating in the evaluation of applications/tenders when external expertise is required, on the basis of Article 179a of the Financial Regulation;
- * Staff of OLAF, IAS (Internal Audit Service), COA (Court of Auditors), the Legal Service of the European Commission, and staff of other Commission services (DG ENV, DG BUDG, Secretariat General) upon request necessary in the context of official investigations or for audit purposes;
- * Members of the public in accordance with the EEA's obligation to publish information on the outcome of procurement and grant award procedures deriving from the budget of the European Union (Articles 30(3), 90 and 110(2) of the Financial Regulation). The information concerns in particular the name and address of the contractors/beneficiaries, the amount awarded and the name of the project or action.

It will be published in supplement S to the Official Journal of the European Union and/or on the external website of the EEA. Additionally, candidates selected in the framework of a call for expression of interest are listed in the intranet of the EEA.

13/ Retention policy of (categories of) personal data

* Files relating to the selection of candidates including personal data are to be retained in the group/programme in charge of the call for expression of interest concerned until the end of the procedure for which it is submitted, and in the archives for a period of 5 years following the closure of the call for expression of interest.

* Files relating to procurement/grant award procedures including personal data are to be retained in the group/programme in charge of the procedure until it is completed, and in the archives for a period of 10 years following the signature of the contract/grant agreement. However, tenders/applications from unsuccessful tenderers/applicants shall only be kept for a period of 5 years following the signature of the contract/grant agreement in question.

* Files might be retained until the end of a possible audit if one started before the end of the above periods.

13 a/ Time limits for blocking and erasure of the different categories of data

(on justified legitimate request from the data subject)

(Please, specify the time limits for every category, if applicable)

Legitimate requests are usually treated immediately but at maximum within 5 working days. However, data encoded as record of reception of the tender/application is kept as it was at the time of reception. The updated data (e.g. contact details or bank account number) are used for correspondence and exchanges that follow.

14/ Historical, statistical or scientific purposes

If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification,

No personal data are kept for historical, statistical or scientific purposes.

15/ Proposed transfers of data to third countries or international organisations

No transfer of personal data to third countries or international organisations is foreseen.

16/ The processing operation presents specific risk which justifies prior checking *(please describe)*:

The processing operation implies the evaluation and ranking of information related to the legal, financial and economic and technical and professional capacity of applicants/tenderers with a view to select the proposal(s)/application(s)/offer(s) which is/are the most economically advantageous in terms of the criteria set in the call for proposals/call for tenders/call for expression of interest.

AS FORESEEN IN:

Article 27.2.(a)

Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

Article 27.2.(b)

Processing operations intended to evaluate personal aspects relating to the data subject,

Article 27.2.(c)

Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

Article 27.2.(d)

Processing operations for the purpose of excluding individuals from a right, benefit or contract,

Other (general concept in Article 27.1)

17/ Comments

PLACE AND DATE: Copenhagen, 27 January 2011

DATA PROTECTION OFFICER: Mr Gordon McInnes

INSTITUTION OR BODY: European Environment Agency (EEA)